IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

R.S.A. No. 449 of 2007

DATE OF DECISION : 23.04.2007

Nazar Singh

.... APPELLANT

Versus

Sajjan Singh

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. H.S. Sachar, Advocate,
for the appellant.

This is defendant's Regular Second Appeal against the judgments and decree, passed by both the courts below, whereby suit of the plaintiff for recovery of an amount of Rs. 1,70,000/- (Rs. 1,00,000/- as principal amount and Rs. 70,000/- as interest) on the basis of pronote and receipt dated 11.12.1998 has been decreed.

I have heard counsel for the appellant and gone through the judgments and decree, passed by the courts below.

It is the case of the plaintiff-respondent that the defendant-appellant borrowed an amount of Rs. 1,00,000/- from him for purchase of land. After receiving the aforesaid amount in cash, a pronote and receipt dated 11.12.1998, Ex.P1 and Ex.P2, were executed by the defendant.

The defendant-appellant denied the execution of the pronote and receipt and claimed that a false suit has been filed on the basis of forged and fabricated documents.

Both the courts below have held that the plaintiff has duly proved the execution of pronote and receipt, Ex.P1 and Ex.P2, by examining Piara Singh (PW.2), an attesting witness and Sat Pal, deed writer (PW.4), the scribe of the pronote and receipt. It has been held that except his

own statement, the defendant did not lead any evidence to prove that the pronote and receipt are forged and fabricated documents and no consideration was passed to him. In view of this, it has been held that the appellant has failed to rebut the presumption raised against him under Section 118 of the Negotiable Instruments Act. Counsel for the appellant, while pointing out the minor contradictions in the statements of the witnesses, examined by the plaintiff, tried to convince this court that the finding recorded by the courts below with regard to the execution of pronote and receipt, Ex.P1 and Ex.P2, is not correct and liable to be set aside.

After hearing the arguments of learned counsel for the appellant and going through the impugned judgments, in my opinion, a pure finding of fact regarding execution of the pronote and receipt has been recorded by both the courts below after appreciating the evidence available on the record. To rebut the presumption raised under Section 118 of the Negotiable Instruments Act, no evidence has been led by the appellant to prove that the pronote and receipt are the forged and fabricated documents. It is not the case of the appellant that some evidence has been ignored by the courts below. Counsel wants re-appraisal of the evidence in the second appeal, which is not permissible under law. Thus, I do not find any ground to interfere in the instant Regular Second Appeal, as no substantial question of law is involved in this appeal.

Dismissed.

April 23, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**